

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVE DALE PERCELLE,
Plaintiff,
v.
S. PEARSON, et al.,
Defendants.

Case No. 12-cv-05343-TEH

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR LEAVE TO FILE
AMENDED COMPLAINT**

This matter is before the Court on Plaintiff Steven Dale Percelle’s motion for leave to file a Second Amended Complaint. (Docket No. 196). The Court previously denied Plaintiff’s administrative motion to reconsider its order dismissing his due process claim with prejudice. July 1, 2015 Order at 3 (Docket No. 209). Therefore, the only significant changes remaining in the proposed Second Amended Complaint (“SAC”) are additional factual allegations in support of Plaintiff’s First Amendment retaliation claim and a new claim for false imprisonment. Proposed SAC at 33-39 (Docket No. 196-1). Defendants filed a statement of non-opposition to the proposed SAC as modified by the Court’s order dismissing the proposed due process claim. (Docket No. 210).

In light of Defendants' statement of non-opposition, the Court finds this matter suitable for resolution without oral argument pursuant to Civil Local Rule 7-1(b). Plaintiff's motion for leave to amend is GRANTED IN PART as unopposed. As the Court has already explained, Plaintiff has not demonstrated a sufficient basis for it to reconsider its order dismissing Plaintiff's due process claim with prejudice; that portion of Plaintiff's motion for leave to amend is accordingly DENIED.

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1 Plaintiff shall file a SAC no later than one week after entry of this order. The SAC
2 shall not include a due process claim, and shall otherwise only include changes that were
3 included in Plaintiff's proposed SAC filed on June 22, 2015.

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5 **IT IS SO ORDERED.**

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7 Dated: 07/09/15

Theoton Henderson
8 THELTON E. HENDERSON
United States District Judge

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United States District Court
Northern District of California